

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE)	PDC CASE NO: 05-110
WITH RCW 42.17)	
)	REPORT OF INVESTIGATION
Mainstream Republicans of Washington,)	
and the Sam Reed Campaign)	
)	
<u>Respondents</u>)	

I.

BACKGROUND

- 1.1 On October 27, 2004, the Public Disclosure Commission received a complaint from Lisa McShane, Chair of the Citizens Protecting Our Water and Forests committee:
- (1) The Mainstream Republicans sent out political advertising as an independent expenditure, supporting Doug Sutherland, Sam Reed and Rob McKenna, and failed to report it within 24 hours as required by RCW 42.17.103.
 - (2) The ad falsely claims that Doug Sutherland has the endorsement of Washington Conservation Voters and The Nature Conservancy, in violation of RCW 42.17.530(1)(c).
 - (3) The ad fails to use the “Notice to Voters...” language, fails to list the “Top 5 Contributors”, and fails to include the partisan affiliation of the three candidates supported in the ad, in violation of RCW 42.17.510.
- 1.2 On November 30, 2004, James D. Oswald filed a Citizen Action (45-day letter) with the Office of the Attorney General. It was forwarded to the Public Disclosure Commission for investigation. Mr. Oswald files the letter on behalf of the Washington Conservation Voters. The letter alleges several violations of the Public Disclosure Law by the Mainstream Republicans. Mr. Oswald alleges:
- (1) The Mainstream Republicans sent out political advertising as an independent expenditure, supporting Doug Sutherland, Sam Reed and Rob McKenna, and the ad falsely claims that Doug Sutherland has the endorsement of Washington Conservation Voters and The Nature Conservancy, in violation of RCW 42.17.530(1)(c).

- (2) After receiving information that the ad was incorrect, the Mainstream Republicans sent out a second mailing of the political advertising that failed to correct the endorsements.
- (3) The ad fails to use the “Notice to Voters...” language, fails to list the “Top 5 Contributors”, and fails to include the partisan affiliation of the three candidates supported in the ad, in violation of RCW 42.17.510.
- (4) The ad was not an independent expenditure, but a contribution to the Doug Sutherland campaign due to Mr. Sutherland’s role as board member for the Mainstream Republicans, in excess of contribution limits provided in RCW 42.17.640.

Given the similarity to Ms. McShane’s complaint filed on October 27, 2004, the Public Disclosure Commission combined the investigation of Mr. Oswald’s 45-day letter with Ms. McShane’s complaint under Case #05-110.

- 1.3 Mr. Sutherland, and Mr. Reed, the incumbent Republican Lands Commissioner and Secretary of State, respectively, prevailed in the general election. Mr. Sutherland had 1,309,441 votes, or 49.96 percent of the total, and Mr. Reed had 1,369,421, or 51.46 percent of the total. Mr. McKenna, Republican candidate for Attorney General also prevailed in the general election. Mr. McKenna received 1,425,368, or 52.98 percent of the total.

SCOPE

- 2.1 Staff reviewed the complaint letter from Ms. McShane dated October 25, 2004 and attachments.
- 2.2 Staff reviewed the three responses from Carol Cain, board member and media consultant for the Mainstream Republicans, received November 30, 2004, December 9, 2004, and January 5, 2005.
- 2.3 Staff reviewed the 45-day letter dated October 25, 2004 from Mr. Oswald and attachments.
- 2.4 Staff reviewed the response from Sid Morrison received by e-mail on December 10, 2004.
- 2.5 Staff reviewed invoices and documents provided from Capitol City Press and Teks Services.
- 2.6 Staff reviewed invoices from Raptor Management provided by Ella Childers of the Mainstream Republicans of Washington.

- 2.7 Staff reviewed the Mainstream Republicans meeting minutes of the August, September and October 2004 board meetings prepared by Joanie Kraft, the Mainstream Republican's secretary.
- 2.8 Staff members of the PDC conducted two interviews under oath with Ms. Cain on December 10, 2004, and January 5, 2005, recorded at the office of the Public Disclosure Commission in Olympia, Washington. (Hereafter, the interviews under oath with Ms. Cain will be referred to as CIO.)
- 2.9 Staff members of the PDC conducted an interview under oath with Ella Childers, treasurer for the Mainstream Republicans, on December 17, 2004, recorded via teleconference from the office of the Public Disclosure Commission in Olympia, Washington. (Hereafter, the interview under oath with Ms. Ella Childers will be referred to as ECIO.)
- 2.10 Staff members of the PDC conducted an interview under oath with Todd Myers, campaign manager for Doug Sutherland, on December 15, 2004, recorded via teleconference from the office of the Public Disclosure Commission in Olympia, Washington. (Hereafter, the interview under oath with Mr. Myers will be referred to as MIO.)
- 2.11 Staff members of the PDC conducted an interview under oath with Doug Sutherland, on December 13, 2004, recorded via teleconference from the office of the Public Disclosure Commission in Olympia, Washington. (Hereafter, the interview under oath with Mr. Sutherland will be referred to as SIO.)
- 2.12 Staff members of the PDC conducted an interview under oath with Steve Excell, volunteer for the Reed Campaign, on December 17, 2004, recorded via teleconference from the office of the Public Disclosure Commission in Olympia, Washington. (Hereafter, the interview under oath with Mr. Excell will be referred to as EIO.)
- 2.13 Staff members of the PDC conducted an interview under oath with Sam Reed on December 20, 2004, recorded via teleconference from the office of the Public Disclosure Commission in Olympia, Washington. (Hereafter, the interview under oath with Mr. Reed will be referred to as RIO.)
- 2.14 Staff members of the PDC conducted an interview under oath with Jim Waldo, a board member of the Mainstream Republicans on January 3, 2005, at the office of the Public Disclosure Commission in Olympia, Washington, and on January 5, 2005, via teleconference. (Hereafter, the interviews under oath with Mr. Waldo will be referred to as WIO.)

- 2.15 Staff members of the PDC conducted an interview under oath with Rob McKenna, Attorney General elect, on January 3, 2005, via teleconference from the office of the Public Disclosure Commission in Olympia, Washington. (Hereafter, the interview under oath with Mr. Rob McKenna will be referred to as RMIO.)
- 2.16 Staff members of the PDC conducted an interview under oath with Joanie Kraft, Board member and Secretary for the Mainstream Republicans, on January 4, 2005, via teleconference from the office of the Public Disclosure Commission in Olympia, Washington. (Hereafter, the interview under oath with Ms. Kraft will be referred to as KIO.)
- 2.17 Staff members of the PDC conducted an interview under oath with Mikal Thomsen, Finance Chair for the Sam Reed Campaign, on January 7, 2005, via teleconference from the office of the Public Disclosure Commission in Olympia, Washington. (Hereafter, the interview under oath with Mr. Thomsen will be referred to as TIO.)
- 2.18 Staff members of the PDC conducted an interview under oath with Gary Smith, County Chair for the Sam Reed Campaign, on January 11, 2005, via teleconference from the office of the Public Disclosure Commission in Olympia, Washington. (Hereafter, the interview under oath with Mr. Gary Smith will be referred to as GSIO.)

III. LAW

- 3.1 **RCW 42.17.020 (14)(a)** "Contribution" includes:
- (i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;
 - (ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents...
- 3.2 **RCW 42.17.020 (24)** "Independent expenditure" means an expenditure that has each of the following elements:
- (a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or

- (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;
- (b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and
- (c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of ***five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.

3.3 RCW 42.17.103 Special reports -- Political advertising.

- (1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

3.4 RCW 42.17.125 Personal use of contributions -- When permitted. Contributions received and reported in accordance with RCW [42.17.060](#) through [42.17.090](#) may only be transferred to the personal account of a candidate, or of a treasurer or other individual or expended for such individual's personal use under the following circumstances:

- (1) Reimbursement for or loans to cover lost earnings incurred as a result of campaigning or services performed for the political committee. Such lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the individual or the individual's political committee. The political committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW [42.17.090](#).
- (2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of such information

when its expenditure for such reimbursement is reported pursuant to RCW [42.17.090](#).

3.5 **RCW 42.17.505 (1)** defines “actual malice” as “to act with knowledge of falsity or with reckless disregard as to truth or falsity.”

3.6 RCW 42.17.510 Identification of sponsor -- Exemptions.

- (1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address... The party with which a candidate files shall be clearly identified in political advertising for partisan office.
- (2) In addition to the materials required by subsection (1) of this section, all political advertising undertaken as an independent expenditure by a person or entity other than a party organization must include the following statement on the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state)." If the advertisement undertaken as an independent expenditure is undertaken by a non individual other than a party organization, then the following notation must also be included: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions reportable under this chapter during the twelve-month period before the date of the advertisement.

3.7 **RCW 42.17.530** prohibits a person from sponsoring with actual malice political advertising that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement. Any violation must be proven by clear and convincing evidence.

3.8 RCW 42.17.640 Limits specified -- Exemptions.

- (2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, during a recall campaign that in the aggregate exceed *five hundred dollars if for a state legislative office or *one thousand dollars if for a state office other than a state legislative office¹.
- (13) No person may accept contributions that exceed the contribution limitations provided in this section.

¹ ***Reviser's note:** The monetary amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW [42.17.690](#). For current dollar amounts, see chapter 390-05 of the Washington Administration Code (WAC).

3.9 WAC 390-05-210 Definition -- Contribution.

- (1) The term "contribution" as defined in RCW 42.17.020 shall be deemed to include, among other things, furnishing services or property or rights on a discriminatory basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution of goods or services is provided, it shall be reported at its fair market value, per WAC 390-05-235 and, pursuant to RCW 42.17.640, the fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.
- (3) Consulting with a state, local or judicial candidate. An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent is a contribution to such candidate. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent when:
 - (a) Any arrangement, coordination or direction by the candidate, the candidate's authorized committee or agent is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or prior to an expenditure being made by that person supporting that candidate or opposing one or more of that candidate's opponents; or
 - (b) An expenditure is made based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, the candidate's authorized committee or agent with a view toward having an expenditure made; or
 - (c) An expenditure is made by, through or in consultation with any person who, during the current election cycle, (i) is or has been authorized to raise or spend over \$500 per election on behalf of the candidate, or (ii) is or has been an officer of the candidate's authorized committee; or
 - (d) The expenditure is made by or in consultation with any person who, during the current election cycle, is or has been receiving any form of campaign-related compensation or reimbursement from the candidate, the candidate's authorized committee or agent.

3.10 WAC 390-05-235 Definition -- Fair market value.

- (1) "Fair market value" or "value" when used in the act or rules is the amount in cash which a well-informed buyer or lessee, willing but not obligated to buy or lease that property, would pay, and which a well-informed seller, or lessor, willing but not obligated to sell or lease it, would accept, taking into consideration all uses to which the property is adapted and might in reason be applied.

(b) If, in determining "fair market value" or "value," the amount buyer would pay and the amount a seller would accept would be based on varying standards, then the fair market value of the contribution shall be based on the amount the contributor would ordinarily accept for selling the property, rather than the amount the candidate or political committee would ordinarily pay. For example, if a contributor who sells property in the ordinary course of his or her business at a wholesale price donates such property to a candidate or political committee who would ordinarily pay the retail price as a consumer, then the fair market value of the contribution shall be the wholesale price.

3.11 **WAC 390-05-190 Agent -- Definition.** "**Agent**," as that term is used in chapter 42.17 RCW and Title 390 WAC, means a person, whether the authority or consent is direct or indirect, express or implied, oral or written, who:

- (1) Is authorized by another to act on his or her behalf; or
- (2) Represents and acts for another with the authority or consent of the person represented; or
- (3) Acts for or in place of another by authority from him or her.

3.12 **WAC 390-05-400** states in part: Pursuant to the requirement in RCW 42.17.690 that the commission biennially revise the dollar amounts found in Initiative 134 to reflect changes in economic conditions...

.640(1) Contribution Limits—2004 Revision	
Candidates for other State Offices	(*) \$1,350 for the primary election and \$1,350 for the general election

IV. FINDINGS

Background

4.1 On June 14, 2004, the Mainstream Republicans (hereafter, TMR) committee submitted an amended political committee registration form (PDC form C-1pc) concerning its continuing committee, which supports moderate republican candidates. The campaign manager section of the registration form was left blank. Ella Childers was listed as the campaign treasurer. **(Exhibit 1)**

4.2 In the committee officers section of the C-1pc, the committee provided attached pages that included the following members' names, and contact information. **(Exhibit 1)** The names of the members included:

1. **Executive Committee:** Sid Morrison (Chair), Louise Miller (Vice Chair), Joan Kraft (Secretary), Ella Childers (Treasurer). **(Exhibit 1)**

2. **Board Members:** Gary Alexander (State Representative), Shawn Bunney (Pierce County Councilmember), Carol Cain, Don Carlson (State Senator), Suzette Cooke, Steve Excell, Shirley Hankins, Jim Horn (State Representative), Trova Hutchins (State Senator), Tim Krivanek, Bruce Mackey, Matt McCoy, Patrick McDonald, Sean McGrath (State Representative), Bob McKee, Dorothy Millhollin, Ken Mortland, George Munro, Peggy Pritchard Olson, Michael Perrow, Tom Ranken, Sam Reed (Secretary of State), Phil Robins, Kirk Robbins, Mary Skinner (State Representative), Doug Sutherland (Commissioner of Public Lands), Rodney Tom (State Representative), Paul Williams, and Jim Waldo. **(Exhibit 1)**
3. **County Chapters, 2004-2005:** Bobbie Gagner, Benton/Franklin, Gary Montague, Chelan/Douglas, Liz Pike Erikson, Clark, Gordon Sondker, Cowlitz, Ed Sterner, King, Matt Ryan, Kitsap, Steve Cain, Pierce, Tim Krivanek, Snohomish, Catherine O'Connell, Spokane, George Shipman, Thurston, Jon Davidson, Yakima. **(Exhibit 1)**
- 4.3 During the 2004 election campaign, through December 31, 2004, TMR received \$122,246.99 in contributions and made \$119,323.66 in expenditures, of which \$90,927.80 was spent on production and distribution of a postcard entitled *"Leadership for Washington's Future,"* which advertised the candidacies of Sam Reed, Doug Sutherland and Rob McKenna, for Secretary of State, Commissioner of Public Lands, and Attorney General, respectively. **(Exhibits 2 and 3)** The committee's website contained a copy of the postcard, located at <http://www.washingtonmainstream.org>, and stated that it was *"sent to over 425,000 households across the state of Washington."* **(Exhibit 4)**
- 4.4 Of the \$90,927.80 spent by TMR on production and distribution of the *"Leadership for Washington's Future"* postcard, \$67,970.30 was paid to Raptor Management Company, a marketing company run by TMR's board member Carol Cain, for coordination of the postcard mailing project, and direct mailing costs. **(Exhibit 2)** A breakdown of the expenses related to the postcard mailer is detailed in section 4.78.
- 4.5 Although the Mainstream Republicans' website states that 425,000 recipient households received the postcards, invoices and testimony indicate that 225,996 postcards were mailed by TEKS Services, an additional 47,297 were allegedly mailed by Raptor Management Company, and approximately 37,703 were available for hand delivery, for a grand distribution total of 310,996. Costs associated with the printing, mailing list, labels, postage and handling for the *"Leadership for Washington's Future"* postcard total \$90,927.80, as detailed in section 4.78.

Content of the "Leadership for Washington's Future" postcard:

4.6 The 6"x11" postcard entitled "*Leadership for Washington's Future*," paid for and sponsored by TMR, advertised the republican candidacies of Sam Reed, Doug Sutherland and Rob McKenna, for Secretary of State, Commissioner of Public Lands and Attorney General, respectively.

1. The front of the postcard contained a letter of endorsement concerning the three candidates from Congresswoman Jennifer Dunn, along with her photograph, signature and the Washington State seal. The front of the postcard identified the following sponsor: "Paid for by Mainstream Republicans of Washington, 7620 West 21st Avenue, Kennewick, Washington, 99338," contained the title of the postcard, "*Leadership for Washington's Future*," and contained the names of the candidates advertised.
(Exhibit 3)
2. A section of the reverse side of postcard, taking up approximately one-third of the card, contained a marked checkbox graphic next to the three following statements:
 - "***Leadership Voters Trust;***"
 - "***Integrity for Washington;***"
 - "***Vote for Washington's future;***"
 - In addition to the three statements, this section included the names of the three statewide candidates and provided the Mainstream Republicans' web site address, which is www.washingtonmainstream.org.
3. The reverse side of the postcard also contained a section of information, of approximately equal space, for each of the three statewide candidates along with their photograph. The three sections contained the following:
 - Under the header, Sam Reed, Secretary of State, the postcard stated, "***Sam Reed fought for your Blanket Primary. Sam Reed passed Washington's first Voter Integrity Act to protect against fraud and discrimination and has fought for the privacy and security of Washington voters. Sam Reed twice rescued the Washington State Library when the Governor threatened closure...Sam Reed – integrity for Washington;***"
 - Under the header, Doug Sutherland, Commissioner of Public Lands, the postcard stated, "***As Lands Commissioner, Doug Sutherland has been endorsed by the WA Conservation Voters, the Nature Conservancy, environmental groups, unions, Democrats and Republicans. During the last 4 years as Lands Commissioner Doug Sutherland's stewardship of state lands has helped ensure the future of our ecosystems. Doug Sutherland – protecting Washington's future;***"
 - Under the header, Rob McKenna, Attorney General, the postcard stated, "***Rob McKenna is a fair, professional and impartial manager***"

with experience as a public official. Prosecutors, Sheriffs and State Officials have endorsed Rob McKenna for Attorney General. Rob McKenna – leadership voters trust.”

4. The sponsor identification provided on the front of the card stated the following, ***“Paid for by Mainstream Republicans of Washington, 7620 West 21st Avenue, Kennewick, WA, 99338, www.washingtonmainstream.org.”*** (Exhibit 3) The postcard did not contain the partisan affiliation of the three candidates advertised, nor did the postcard contain the “Notice to Voters....” language, or list the “Top 5 Contributors” used to describe independent expenditure advertising undertaken by a political committee. (Exhibit 3)
- 4.7 The Mainstream Republicans produced a second edition of the postcard after the committee learned of problems concerning Mr. Sutherland’s endorsements advertised on the postcard. The second edition of the 6”x11” postcard contained the exact information described in 4.6, but updated Mr. Sutherland section, and stated the following, ***“As Lands Commissioner, Doug Sutherland has been endorsed by the Board Members of (emphasis added) WA Conservation Voters, the Nature Conservancy, environmental groups, unions, Democrats and Republicans. During the last 4 years as Lands Commissioner Doug Sutherland’s stewardship of state lands has helped ensure the future of our ecosystems. Doug Sutherland – protecting Washington’s future.”*** (Exhibit 3)

Alleged violation of RCW 42.17.103 by officials of Mainstream Republicans:

- 4.8 As previously described, on October 27, 2004, the PDC received a complaint from Ms. McShane alleging in part that the Mainstream Republicans (TMR) sent out political advertising as an independent expenditure on October 15, 2004, supporting Doug Sutherland, Sam Reed and Rob McKenna, and failed to report it within 24 hours as required by RCW 42.17.103. (Exhibit 6)
- 4.9 Capitol City Press’ invoice number 25167 indicated that it printed 380,000 copies of the *“Leadership for Washington’s Future”* postcard on October 14, 2004, for TMR, costing \$21,957.50. (Exhibit 8) TEKS Services’ invoice number 3577 indicated that 127,698 *“Leadership for Washington’s Future”* postcards were then sent on October 15, 2004 for a cost of \$26,917.49 for Raptor Management Company on behalf of TMR. (Exhibit 7) Given that the advertisement costs over \$1,000 and was presented to the public on October 15, 2004, within 21 days of an election, the Independent Expenditure report (PDC form C-6) was due by October 16, 2004.
- 4.10 Ella Childers, treasurer for TMR, filed a C-6 form on October 21, 2004 disclosing the October 15th mailer advertising support of Sam Reed, Doug Sutherland and Rob McKenna, for Secretary of State, Commissioner of Public Lands, and Attorney General, respectively. The form disclosed that the committee made two expenditures on October 15, 2004, one to Capitol City Press for \$21,000, and one to Raptor Management Company, a company run by TMR’s board member Carol Cain,

for \$35,500, related to its advertisement presented to the public on October 15, 2004. **(Exhibit 5)** The C-6 form was filed five days later than its October 16, 2004 deadline.

- 4.11 Ms. Cain stated in a letter responding to the allegations that TMR's treasurer inadvertently ***"missed the deadline"*** for reporting the postcard mailer. She states, ***"The report was made, but late."*** **(Exhibit 10)** Ella Childers, treasurer for TMR stated in an interview under oath that she first realized that she had not timely filed C-6 report for the October 15th postcard mailing when she reviewed the compliant. She stated, ***"It's one of those things when I first got that letter or the notification whether it was a letter whether it was an email and it said I was late I said no I'm not. And I went and looked at my records and I said oh my gosh I am. It's one of those things, I don't know how it happened. I've been a treasurer for 10-12 years I'm not late and here I am late and I have no idea why. I have no excuse. I was and I'm sorry and I had no intent of being late."*** **(Exhibit 19, CIO, p. 16)**
- 4.12 On October 26, 2004, TMR filed a second C-6 report disclosing more expenses related to advertising support of Sam Reed, Doug Sutherland and Rob McKenna. **(Exhibit 5)** The committee reported that it made one expense on October 26, 2004, to Raptor Management Company of \$32,475.80, for a mailer that was presented to the public on October 26, 2004, and spent a total of \$88,975.80 for the two independent expenditures. **(Exhibit 5)** TEKS Services' invoice number 3645 indicated that 98,298 *"Leadership for Washington's Future"* postcards were sent on October 27, 2004 for a cost of \$26,917.49 for Raptor Management Company on behalf of TMR. **(Exhibit 7)** An additional 5,000 postcards, costing \$1,377.76, were printed by Capitol City Press for Carol Cain's company, Raptor Management, as documented on invoice number 25721, dated October 27, 2004. **(Exhibit 8)** Further, Ms. Cain stated in an interview under oath that she conducted an additional mailing of 47,297 postcards at \$.37, through her company, Raptor Management that was sent in increments from October 25 to October 30, 2004. **(Exhibits 11 and 12)** Given that this report discloses expenses for an October 27th mailing conducted by TEKS Services, and expenses for a mailing conducted by Raptor Management that began October 25th, the C-6 report was timely filed. **(Exhibit 11, Exhibit 12 and Exhibit 16)**
- 4.13 On December 1, 2004, TMR filed the Cash Receipts and Expenditure report (PDC form Schedule A to C-4), reporting payment to Capitol City Press on October 28, 2004 of \$21,957.50 for printing of the postcard, and a payment to Claddagh Associates on October 29, 2004 of \$1,000, thereby bring the total amount spent toward for the postcard mailer to \$90,927. **(Exhibit 2)**

Alleged violation of RCW 42.17.530(1)(c) by officials of Mainstream Republicans

- 4.14 As previously described, on October 27, 2004, Ms. McShane alleged that TMR sent out political advertising that falsely claimed Doug Sutherland was endorsed by

Washington Conservation Voters and The Nature Conservancy, in violation of RCW 42.17.530(1)(c). **(Exhibit 6)** Ms. McShane states that Washington Conservation Voters endorsed Mr. Sutherland's challenger in the race, Mike Cooper, and that The Nature Conservancy is precluded from endorsing candidates due to its status as a tax-exempt, non-profit organization, organized under section 501(c)3 of Internal Revenue Code. Ms. McShane further states that it is well known that Mr. Sutherland did not receive these groups' endorsement.

4.15 On November 30, 2004, Mr. Oswald filed a citizen action letter also alleging that the Mainstream Republicans sent out political advertising that falsely claims that Doug Sutherland has the endorsement of Washington Conservation Voters and The Nature Conservancy, in violation of RCW 42.17.530(1)(c). **(Exhibit 14)** Mr. Oswald also argues that it was a well-published fact that the Washington Conservation Voters endorsed Mr. Cooper's candidacy over that of Mr. Sutherland, and provided the following examples:

- a) An article by Ian Ith in the Thursday, May 13, 2004, edition of The Seattle Times, entitled "*Cooper picks up key support in lands race*" stated, ***"Washington Conservation Voters handed its coveted election endorsement yesterday to Democrat Mike Cooper in his bid to unseat Republican Doug Sutherland as state commissioner of public lands."*** **(Exhibit 20)**
- b) Washington Conservation Voters website, located at www.wcvoters.org/, posted its endorsement list in the month of May, 2004, listing its endorsement of Mike Cooper for Public Lands Commissioner. **(Exhibit 21)**

4.16 Sid Morrison, chair of the Mainstream Republicans, stated that the idea to produce and distribute an independent expenditure mailer advertising, in part, to support Mr. Sutherland's candidacy for Public Lands Commissioner, was suggested by Jim Waldo, who also offered to raise monies for the effort. Mr. Morrison stated that he reviewed the idea with TMR officers, Ella Childers and Joanie Kraft, and board member, Ms. Cain. Mr. Morrison stated that due to her work on producing and distributing TMR newsletters, Ms. Cain offered to work on the production of the postcard and coordinate its mailing. **(Exhibit 13)** Interviews under oath conducted with Mr. Waldo, Ms. Childers, Ms. Kraft and Ms. Cain substantiate Mr. Morrison's description of the postcard's inception, and of Mr. Waldo's and Ms. Cain's role in preparing the card.

4.17 Ms. Cain stated that she prepared the postcard's content with input from Jim Waldo; however she alone was responsible for the language on the postcard concerning Mr. Sutherland's endorsements. **(Exhibit 15, CIO, p. 12)** Ms. Cain stated that she received information about the candidates from their web sites, and used this information in the postcard. She stated, ***"The text, what's under or beside each picture is pretty much what's taken off of each one's website."*** **(Exhibit 15, CIO, p. 13)** She stated that in the process of copying information from Mr. Sutherland's

web site concerning his endorsements, she inadvertently failed to include the words “board members of,” when identifying endorsements due her misinterpretation of the statement, and fatigue. **(Exhibit 10)** Ms. Cain stated, *“What I did do was omit the board members of and put it as the groups. And that was just a leap on my part, I was running out of space, it was late at night, I was tired and I figured oh hey, if the board members have, the group has. I was wrong... the dots just did not connect that if you say board, take out the board members of it puts a complete new meaning on it. It just didn’t connect.”* **(Exhibit 15, CIO, p. 13)**

4.18 Ms. Cain stated that although she sent a proof of the draft postcard to Mr. Morrison, Mr. Waldo, Ms. Kraft, and Ms. Childers prior to printing it, she did not receive any feedback concerning its content. **(Exhibit 15, CIO, p. 14)** Statements made under oath by Ms. Kraft, Ms. Childers and Mr. Waldo substantiate Ms. Cain’s description of the postcard’s review process, and that they did not provide feedback. **(Exhibit 19, Exhibit 23, Exhibit 28)**

4.19 Ms. Cain stated that TMR took immediate steps, after learning of the endorsement problem on October 21, 2004, to post a correction notice on its website on October 22, 2004. **(Exhibit 4, Exhibit 10 and Exhibit 11)** Mr. Waldo stated that TMR posted a correction on its web site to inform the recipients of the mailer of the incorrect wording due to the impracticality of re-mailing a corrected postcard to them. He stated, *“(T)he reason for going to the website rather than re-mailing, in other words it was in time to go out with the absentee voters getting their ballot. And by the time you could have re-mailed most all of them would have voted. The whole reason for the timing was to get it there when they’re going to receive their absentee ballots. And that’s why it seemed to me actually the website, to the extent that we were getting hits on it, was a more timely way of bringing that to people’s attention than trying to re-mail people who had already voted.”* **(Exhibit 23, WIO, p. 47)**

Alleged intentional violation of RCW 42.17.530(1)(c) by officials of Mainstream Republicans

4.20 Mr. Oswald further alleged that once learning of Mr. Sutherland’s endorsements, the Mainstream Republicans continued to send out political advertising on October 26, 2004, as documented by the C-6 report, that falsely claims that Doug Sutherland had the endorsement of Washington Conservation Voters and The Nature Conservancy, in violation of RCW 42.17.530(1)(c). **(Exhibit 14)** Mr. Oswald provided the following evidence of the mailing and notification of an error provided to TMR:

- a) E-mail correspondence from Bruce Gryniewski, Executor Director of the Washington Conservation Voters, sent to info@washingtonmainstream.org, on October 21, 2004. Mr. Gryniewski states in the e-mail that Washington Conservation Voters has endorsed Mike Cooper for Public Lands, and requests a new mailing stating that the prior mailing was in error. **(Exhibit 14)**

- b) News release by The Nature Conservancy released on October 22, 2004, stating that The Nature Conservancy and the Washington Conservation Voters has not endorsed Mr. Sutherland. The news release states that Washington Conservation Voters has endorsed Mike Cooper for Public Lands, and states that The Nature Conservancy is a not-for-profit corporation that cannot and does not participate in partisan political campaigns or support candidates for elective office. The statement also publicly documents the request for a new mailing to the original recipients stating that the prior mailing was in error, and a news release correcting the misstatements. **(Exhibit 14)**
 - c) The C-6 report filed by TMR on October 26, 2004, in which the committee indicated that it made one expense on October 26, 2004, to Raptor Management Company of \$32,475.80, for a mailer that was presented to the public on October 26, 2004, and spent a total of \$88,975.80 for the two independent expenditures. **(Exhibit 5)**
- 4.21 Michael Perrow, web master for TMR's website, sent an e-mail to Mr. Morrison and Joan Kraft, Secretary for TMR, on October 21, 2004, notifying them of problems with endorsements advertised by TMR. Mr. Perrow informed Mr. Morrison and Ms. Kraft of two e-mails sent to the web site's general e-mail address, info@washigntonmainstream.org, and phone calls made to the committee from Maggie Coon of The Nature Conservancy, and Mr. Gryniewski of Washington Conservation Voters. **(Exhibit 12)** TMR's website received an additional e-mail on October 21, 2004 from Len Barson, Deputy Director of External Affairs for The Nature Conservancy. Mr. Barson's e-mail addressed the tax status of The Nature Conservancy and the fact that the entity is prohibited by law from endorsing candidates, and that The Nature Conservancy did not endorse Mr. Sutherland. **(Exhibit 12)** On October 25, 2004, Mr. Perrow sent an e-mail to Mr. Morrison, Ms. Kraft, Ms. Childers, and Ms. Cain concerning a telephone message for TMR from Robert McClure, of the Seattle Post Intelligencer, concerning endorsements of the Sutherland campaign and a ***"PDC complaint being filed against your group."*** **(Exhibit 12)**
- 4.22 Mr. Morrison stated that he learned of the endorsement problem when he received a phone call from Ms. Coon of The Nature Conservancy. He stated, ***"I first got information on the mistake (by omission of three words) in the listing of endorsements for Doug Sutherland in a phone call came from Maggie Coon, a long time friend and leader in the Nature Conservancy. She was concerned about the 501 (c) 3 non-profit status of their organization which I fully understood since I am Chair of several similar groups. I assured her that I would do everything possible to make the correction and communicate with the IRS if needed."*** **(Exhibit 22)**
- 4.23 Ms. Cain stated that the omission of the words "board members of" was not intentional. She stated that part of the problem in producing independent

expenditure advertising is that the committee ***“can’t have the candidate’s folks proofread anything.” (Exhibit 10)*** Ms. Cain stated that upon learning of the problem with Mr. Sutherland’s advertised endorsements on October 21, 2004, the TMR committee’s web site was updated the next day with a correction notice that stated the following:

“There is a correction to the statement about Doug Sutherland in the earliest version: He has not been endorsed by The Nature Conservancy or Washington Conservation Voters as stated in our mailer. The statement should have read: “endorsed by Board members of” both groups. We apologize for any misunderstanding that this has caused.” (Exhibit 4 and Exhibit 10)

Further, Ms. Cain stated that mailers were then reprinted with the corrected statement. **(Exhibit 11)**

4.24 Ms. Cain stated that 225,996 postcards sent by TEKS Services contained the incorrect information concerning Mr. Sutherland’s endorsements, which Ms. Cain states were mailed in two groups, on October 13, 2004, totaling 127,698, and on October 22, 2004, totaling 98,298 postcards. **(Exhibit 11)** However, according to information provided by TEKS Services, the sub-vendor used by Ms. Cain, the first mail project for 127,698 postcards was delivered to the US Post Office on October 15, and the second mail project for 98,298 postcards was delivered to the US Post Office on October 27, 2004. **(Exhibit 7)** Tom Brady of TEKS Services stated that the date listed on its invoices corresponds with the date the project is ordered and the projects are completed within a few days of the date. Mr. Brady stated the second mail project of 98,298 pieces was ordered on October 25, 2004. **(Exhibit 33)**

4.25 In an interview under oath, and a written statement provided on December 9, 2004, Ms. Cain made statements that are inconsistent with the vendor statements concerning when the second mail project was conducted. Describing the mail project as occurring on or about October 22nd, Ms. Cain states that this project was not pulled from production from TEKS Services because it didn’t occur to her to do so. She stated, ***“You know we didn’t even think about the post cards at that time because there was such chaos over oh ... what do we do type thing. How do we correct this? Sid and I were on the phone. Jim Waldo and I were on the phone somewhere in there. I can’t remember the specific dates. And of course you’ve got to remember my phone calls are not made during the daytime. I work during the daytime so I have to do all of this at night or early in the morning...We were so worried about what we did that I didn’t even realize the second batch had been gone before then. And, it just was chaos. It’s very difficult to explain how chaotic we really were. Like I said...when I did the first mail drop we scheduled the drop of the second... (to occur about a week later).” (Exhibit 15, CIO, P. 21)*** When asked whether Ms. Cain contacted TEKS Services to see where the second mailing project was in process, Ms. Cain stated, ***“Didn’t even think about it on the 22nd. We were scrambling so much to get something on the website that night and figure out***

what to do that it didn't even cross my mind to call TEKS Services that night."
(Exhibit 15, CIO, p. 22 and 23)

- 4.26 In Ms. Cain's letter of response on December 9, 2004, she acknowledges that although the mailing was scheduled for October 22nd, she does ***"not know the exact date"*** of the mailing. **(Exhibit 11)** However, as previously described, Tom Brady and Doug Brady of TEKS Services stated the second mail project of 98,298 pieces was ordered on October 25, 2004, and mailed on October 27, 2004. **(Exhibit 7 and Exhibit 33)** Further, on October 26, 2004 Ms. Cain sent an e-mail to Ms. Childers regarding invoice number 04-1025-05 for her company, Raptor Management, requesting payment for a mailing to occur on October 27, 2004. Ms. Cain requested a certified check be deposited into Raptor Management's account, and attached a deposit slip to the e-mail for that purpose. She states, ***"We're sending out a total of 162,379 pieces of mail this time for a total cost of \$32,475.80...Everything has to be in the mail tomorrow or the post office won't guarantee delivery by Nov 2. So we are on a time crunch now."*** **(Exhibit 18)**
- 4.27 In an interview conducted on January 5, 2005, Ms. Cain maintained that the second TEKS Services mailing was to have been mailed on or about October 22, 2004. She states, ***"It was supposed to have gone out by the 22nd...Now I see here that he didn't mail it out until much later than that and I did not know that. Because that is not when we wanted that second set to go out at all. We had, Jim and I had figured out when we wanted cards to hit and that was not right."*** **(Exhibit 15, CIO2, p. 4)** When confronted with the fact that the mailing occurred on October 27, 2004, Ms. Cain expressed surprise. She stated, ***"Yes it surprises me that it didn't go out on the 27th, I would have liked to have been told because I would have stopped it at that particular point in time. That would have really created some, well obviously it created problems."*** **(Exhibit 15, CIO2, p. 8)**
- 4.28 On October 26, 2004, TMR filed a second C-6 report disclosing additional expenses related to advertising support of Sam Reed, Doug Sutherland and Rob McKenna, consistent with Raptor Management's invoice number 04-1025-05. **(Exhibit 5)** The committee indicated that it made one expense on October 26, 2004, to Raptor Management Company of \$32,475.80, for a mailer that was presented to the public on October 26, 2004, and spent a total of \$88,975.80 for the two independent expenditures. **(Exhibit 5)**
- 4.29 Ms. Cain stated that her company conducted the correction process for approximately 60,000 postcards that were hand-delivered to organizations and approximately 78,000 postcards mailed by her company. **(Exhibit 11)** Ms. Cain later amended these totals, and stated that she corrected 47,297 postcards that she then mailed and 51,707 postcards that were available for hand delivery. **(Exhibit 12)** Although Ms. Cain states that 51,707 postcards were corrected for hand delivery, PDC staff estimates that 37,703 postcards were available to distribution.

This number was derived by deducting from the total number of postcards printed, the number mailed by TEKS Services, the number destroyed by TEKS Services, and the number Ms. Cain states she mailed ($385,000 - 225,996 - 74,004 - 47,297 = 37,703$). **(Exhibit 7, Exhibit 8, Exhibit 12)** However, PDC staff was not able to verify Ms. Cain's mailing of 47,297 postcards, as she did not produce receipts for postage, or labels to verify this information. Further, Raptor Management's October 2004 bank statement provided by Ms. Cain to document expenses for postage was altered to remove the transaction detail. Thus, it was not possible to determine with certainty the number of postcards mailed by Ms. Cain. **(Exhibit 12 and Exhibit 9)**

- a) Ms. Cain states that a third mailing project was pulled from TEKS Services due to the need to correct postcards, and the vendor's inability to attach correction stickers. **(Exhibit 11)** However, Mr. Brady of TEKS Services stated that a third mailing project was never scheduled by Ms. Cain. **(Exhibit 33)**
- b) In an interview under oath, Ms. Cain initially stated that she went to a local store to have correction stickers printed to affix to the postcards. She stated, *"I printed the one page of them and then I had them copied...Oh I took them to a local place in Gig Harbor that has a color copier. It was the UPS Store I think. It's in Gig Harbor. I can get you that."* **(Exhibit 15, CIO, p. 23)** When Ms. Cain was requested to produce receipts for correction stickers, in a letter dated January 5, 2005, she stated, *"I do not have all the receipts that you are asking for because they don't exist: I used stickers and labels left over that I had left over from a previous project about 9 years ago (it's what you do when you belong to a volunteer group and yes I had that many) and would have no clue about a receipt or proof of purchase from 1998/96."* **(Exhibit 12)** In an interview under oath, Ms. Cain stated that she produced the correction stickers and mailing labels from her equipment. She stated, *"Please keep in mind that I have production equipment. I have a \$12,000 copy machine, a little bit older but it still functions very, very well and I have production color printers... They were actually full sheets and we just, because that size was such an awkward size that we just... We just did two, I think there were like maybe 32 or 33, a very odd number that would fit onto a sheet both sides and we just cut them."* **(Exhibit 15, CIO2, p. 17)** *"...we put the corrected stickers on, I think you've got one that should have a sticker on it. Yeah. We did that and put stamps on them."* **(Exhibit 15, CIO1, p. 6)**
- c) Ms. Cain states that her company received from TEKS Services the mailing labels database prepared by Jim Keough of Claddagh Associates, from which she printed 78,000 labels from her home office computer for the postcards. **(Exhibit 15, CIO, p. 24)** Ms. Cain described that this mailing project was the poll voter list. She stated, *"It was poll voters versus the other two were absentee voters."* **(Exhibit 15, CIO, p. 25)** Ms. Cain stated in a subsequent interview under oath that the mailing labels she produced for the mailing of 47,297 pieces was from data that she's collected over the years. She stated, *"I had different lists than what we were getting from Jim Keogh that I was going to get to do. And I*

- wasn't, with all of the ones we had in the trailer decided we could do some more mailings, clubs and that type of thing. The decisions on who to mail and how many to mail truly changed on a daily basis.*" (Exhibit 15, CIO2, p. 18) Ms. Cain also stated, *"I got nothing from Jim Keogh, that's all my data."* (Exhibit 15, CIO2, p. 21)
- d) Ms. Cain stated that she personally, with help from her spouse, affixed correction stickers to the postcards, as well as mailing labels and a \$.37 stamp for a mail project that went out in increments from October 25 through October 30, 2004, totaling 47,297, and the cards to be hand delivered. She states, *"as we got the list and got these things ready we started doing this and it took about three days to do them."* (Exhibit 15, CIO2, p. 14) *"I know that I mailed 47,297... Because I bought the postage for it."* (Exhibit 15, CIO2, p. 12 and 13)
- e) Ms. Cain acknowledges that in responding to the complaint filed against TMR, she became confused about the number of corrected postcards that were mailed and handed out, and states that she only knows approximate numbers. (Exhibit 12) Ms. Cain states, *"I don't know that we can ever reconcile the numbers exactly for you."* (Exhibit 12)

Alleged violation of RCW 42.17.510(1) and 42.17.510(2) by officials of Mainstream Republicans

- 4.30 As previously described, on October 27, and November 30, 2004, the Public Disclosure Commission received a complaint from Ms. McShane and Mr. Oswald alleging that the postcard mailer in question fails to use the "Notice to Voters...." language, fails to list the "Top 5 Contributors", and fails to include the partisan affiliation of the three candidates supported in the ad, in violation of RCW 42.17.510. (Exhibit 6 and Exhibit 14)
- 4.31 As previously stated, the sponsor identification provided on the front of the card stated the following, *"Paid for by Mainstream Republicans of Washington, 7620 West 21st Avenue, Kennewick, WA, 99338, www.washingtonmainstream.org."* (Exhibit 3) The postcard did not contain the partisan affiliation of the three candidates advertised, nor did the postcard contain the "Notice to Voters...." language, or list the "Top 5 Contributors" used to describe independent expenditure advertising undertaken by a political committee. (Exhibit 3)
- 4.32 Ms. Cain stated that she made an error of omission by failing to identify the party designation for the candidates advertised. (Exhibit 10) Concerning the failure to include the statement, *"NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state),"* Ms. Cain stated that this, too, was an error of omission. She stated, *"Again, simple error on my part."* (Exhibit 10)

4.33 Mr. Waldo stated that he discussed the sponsor identification requirement with Ella Childers prior to the mailer being mailed. He stated, ***“I was under the impression from what Ella said, the treasurer, that, or let me put it this way, she was, had the understanding that this time around because Mainstream essentially had the attributes of a party organization that it was not required. I asked her that question.”*** (Exhibit 23, WIO, p. 4) Mr. Waldo clarified Ms. Childers’ understanding of party organization attributes. He stated, ***“...she said basically it was, because Mainstream was an organization that was not set up just for the campaign, this campaign year, nor set up to help one candidate because it has sort of a general republican status, communicates with its members in between elections on issues as well as campaigns, that the requirements were essentially those that the party would have.”*** (Exhibit 23, WIO, p. 5)

4.34 Concerning the failure to include the words "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions reportable under this chapter during the twelve-month period before the date of the advertisement, Ms. Cain stated that this, too, was an error of omission. She stated, ***“For some reason I had it in my mind that you only listed if there were contributors who gave specifically for a mailer and not just to the organization.”*** (Exhibit 10) Ms. Childers stated that TMR did not intentionally fail to provide proper sponsor identification. She stated, ***“(T)here was never any intent but to do this correctly. You know, we did the avenues that we thought were right and in several cases we were wrong unfortunately and it’s caused a lot of grief to people and we’re very sorry about that.”*** (Exhibit 34, EIO, p. 15)

4.35 The Mainstream Republicans were required to report the names of John Stanton, CEO of Western Wireless, Puget Sound Energy, and Weyerhaeuser, and to choose from amongst seven contributors that donated \$5,000 to the committee. Please see the table below listing the top contributors to TMR.

Contribution Date	Amount	Contributor Name
10/07/2004	\$ 10,000	STANTON JOHN
10/11/2004	\$ 10,000	PUGET SOUND ENERGY
Contribution Date	Amount	Contributor Name
10/08/2004	\$ 7,500	WEYERHAEUSER
10/07/2004	\$ 5,000	THOMSEN MIKAL
10/07/2004	\$ 5,000	WEYERHAEUSER WILLIAM
10/08/2004	\$ 5,000	SAFECO CORP
10/15/2004	\$ 5,000	AVISTA CORP
10/15/2004	\$ 5,000	SSA MARINE
10/15/2004	\$ 5,000	SIMPSON
10/29/2004	\$ 5,000	BOEING

Alleged violation of RCW 42.17.640(2) and 42.17.640(13) by officials of Mainstream Republicans, and the Sam Reed Campaign, Doug Sutherland Campaign and Rob McKenna Campaign

- 4.36 On November 30, 2004, Mr. Oswald alleged that the ad in question was not an independent expenditure, but a contribution to the Doug Sutherland campaign due to Mr. Sutherland's role as board member for the Mainstream Republicans, in excess of contribution limits provided in RCW 42.17.640. **(Exhibit 14)** As previously described, Doug Sutherland, Public Lands Commissioner, and Sam Reed, Secretary of State, are Mainstream Republican board members, as documented on its C-1pc. **(Exhibit 1)** Rob McKenna is not listed as a Mainstream Republican board member on the C-1pc.
- 4.37 As previously described, TMR reported expenses of \$90,927.80 related to production and distribution of a postcard entitled "*Leadership for Washington's Future*," which advertised the candidacies of Sam Reed, Doug Sutherland and Rob McKenna, for Secretary of State, Commissioner of Public Lands, and Attorney General, respectively. **(Exhibit 2)** Given that three candidates were advertised equally on the postcard, \$30,309.26 was spent per candidate.

Inception of the postcard mailer

- 4.38 In a letter responding to Mr. Oswald's complaint, Sid Morrison, chair of the Mainstream Republicans, stated that the idea to produce and distribute a mailer advertising the candidacies of Sam Reed, Doug Sutherland and Rob McKenna was suggested to him by Jim Waldo in late September. Mr. Morrison stated that he reviewed the idea with the committee officers prior to giving Mr. Waldo the go-ahead, and later received formal board approval to undertake the expenditure. Mr. Morrison stated that Ms. Cain volunteered to work on producing the postcard. **(Exhibit 22)** He stated, "*Jim phoned me this fall, late September I believe, asking if Mainstream would again lend their name to an independent effort to help the above named candidates. All had been endorsed by Mainstream through a separate process we utilize for screening candidates. Knowing of Jim's abilities to raise funds, I told him that I would check with the proper people for a reaction but that I was eager to have us participate. My leadership partners, Secretary Joan Kraft of Wenatchee and Treasurer Ella Childers of Kennewick agreed in an e-mail I immediately sent them. Carol Cain, also on our Board, e-mailed me that she would be willing to work with Jim Waldo and do the mechanical side of preparation. There were no other communications with anyone, and we waited until the next Board meeting to, after the fact, get their approval.*" **(Exhibit 22)**
- 4.39 Mr. Waldo confirms Mr. Morrison's description of events pertaining to the genesis of the postcard mailer. He states, "*... I think around the, the end of the third week or beginning of the fourth week in September... I called Sid Morrison who is the current head of the Mainstream Republican organization... and said what is the organization doing on behalf of candidates in either direct contributions or*

independent expenditures. And the answer was at that point they didn't have a lot of money to do much. And so I asked Sid well if we could raise some money what did he think about both giving to candidates and doing an independent mailing similar to the one we had done in 2000. And he said I can't imagine the board wouldn't be supportive of that but let me make some phone calls and get back to you. And so a couple of days later he called back and said yes we'd very much like to do that if you can raise the money. (Exhibit 23, WIO, p. 6 and 7) Mr. Waldo described that he was a volunteer for TMR, and that in the past had been an officer board member of the organization. (Exhibit 23, WIO1, p. 1)

4.40 Mr. Waldo stated that the three candidates that appeared on the postcard were chosen from the five statewide office races for Governor, Superintendent of Public Instruction, Secretary of State, Public Lands Commissioner and Attorney General. He stated, *"I said we have to go with three and the question was really out of those five which three would we pick."* (Exhibit 23, WIO, p. 7) Mr. Waldo stated that he wanted the postcard to advertise for Mr. McKenna's candidacy. He stated, *"I was pushing for McKenna because he was not an incumbent. And after the chamber got through thoroughly screwing things up in that race right around the time of the primary it looked to me like he was going to have a very difficult race. He'd never run statewide and wasn't known and so I guess if I was pushing strongly for anybody it was for him."* (Exhibit 23, WIO, p. 7) Mr. Waldo stated that he also believed the Mr. Reed and Mr. Sutherland would be included in the mailer. He stated, *"Doug and Sam are former Mainstream board chairs and both of them are honorable people who have done good jobs. So I guess I expected they would probably be in whatever we would do and it would almost be affront to them to not include them in after they headed up the organization at one time or another."* (Exhibit 23, WIO, p. 7)

4.41 Mr. Waldo stated that once given the "green-light" by Mr. Morrison, he hoped to fundraise about \$60,000 to produce the mailer and for TMR to make direct contributions to candidates. He stated, *"my hopes initially had been that we'd raise about \$60,000 maybe. And I thought the maximum we could raise would maybe be \$110,000 to \$120,000... But since we were so late there was really no good way to predict because an awful lot of people had already made their decisions about contributions and so even people that might be otherwise interested would say I'm sorry we're all done here."* (Exhibit 23, WIO, p. 10) Mr. Waldo stated that he intended to solicit contributions from people and entities that previously gave to the Mainstream Republicans' independent expenditure effort in 2000. He stated, *"Well I mean I was sort of thinking through people that I knew personally or people that I had worked with in the past that some of whom had given in 2000."* (Exhibit 23, WIO, p. 10)

The Mainstream Republicans' board meetings

- 4.42 Ms. Cain stated that Mr. Sutherland has not been an active board member in 2004, and noted that he did not attend board meetings from May to early November 2004. **(Exhibit 11)** A review of the TMR board meeting minutes provided from June 10 through October 14, 2004, substantiate that Mr. Sutherland was not in attendance during this period and indicate that Mr. Reed attended a meeting on August 12, 2004. **(Exhibit 27)**
- 4.43 The October 14, 2004, TMR board meeting minutes indicate a discussion and a formal decision concerning undertaking an independent expenditure supporting Doug Sutherland, Sam Reed and Rob McKenna with the monies raised by Jim Waldo, at that time totaling \$49,937.26. **(Exhibit 27)** The minutes reflect, ***“The independent expenditure for the three above named candidates will be mailed to 183,000 absentees with 80,000 left for letter drops covering 39 of the 49 (sic) counties. \$37,000 was spent on labels, list and postage. A new mail house saved half the cost. Jim Waldo has a commitment for \$24,500 and challenges the Board to raise a similar amount.”*** Mr. Waldo’s name does not appear as an attendee at the October 14th meeting. **(Exhibit 27)**
- 4.44 As board secretary for TMR, Joan Kraft stated that she produces minutes for the board meetings, and sends them to the board members at the below listed e-mail addresses, which includes Mr. Sutherland’s and Mr. Reed’s e-mail addresses. **(Exhibit 28, KIO, p. 2, and Exhibit 39)** The listing does not include Mr. McKenna’s e-mail address. According to an e-mail sent to Mr. Morrison, Ms. Kraft forwarded the October 14th meeting minutes on October 21, 2004. She stated under oath that she did not remove Mr. Sutherland or Mr. Reed’s e-mail addresses. **(Exhibit 12 and Exhibit 28, KIO, p. 6)**
- 4.45 Mr. Sutherland stated under oath that although he received minutes from the August, September, October and November TMR board meetings, he has no specific recollection of reading the minutes. **(Exhibit 29, SIO, p. 4)** He stated, ***“No, I don’t believe I did.”*** **(Exhibit 29, SIO, p. 13)** Mr. Reed stated under oath that although he received minutes from TMR board meetings, he has no specific recollection of reading the October 14th minutes. **(Exhibit 31, SRIO, p. 3 and 4)** He stated, ***“Well if I wasn’t there I tried to glance through them ...”*** **(Exhibit 31, SRIO, p. 3)** When asked if he recalled reading the October 14th meeting minutes, he stated, ***“No I don’t.”*** **(Exhibit 31, SRIO, p. 4)**

Doug Sutherland Campaign:

- 4.46 In a letter of response, Ms. Cain stated that Mr. Sutherland was not aware of the plan to produce an independent expenditure that advertised his candidacy, nor were there any ***“discussions with any of the campaign folks from any of the campaigns involved regarding this mailer. There were no discussions with any of the candidates about this mailer by any of us who were involved.”*** **(Exhibit 11)** Ms. Cain states that the discussions surrounding the postcard mailer were limited to Mr.

Morrison, Mr. Waldo, Ms. Childers, Ms. Kraft, and herself. She noted that her husband, Steve Cain, was aware of the postcard mailer because he is a partner of Raptor Management, and that Mr. Waldo contacted Congresswoman Dunn for approval on the letter included in the postcard. **(Exhibit 11)**

4.47 In an interview under oath with Mr. Sutherland, he stated that he has been a board member of TMR for approximately 16 years. During calendar year 2004, Mr. Sutherland stated that he attended board meetings through May, 2004, and not again until after the election. **(Exhibit 29, SIO, p. 2)** When asked whether Mr. Sutherland was aware of TMR's general advertising plan for 2004, he stated he was aware that the committee would be endorsing candidates, which he agreed could be advertised to members of TMR, previous contributors of the committee and/or a wider audience. He stated, ***"All of the above."*** **(Exhibit 29, SIO, p. 2 and 3)**

4.48 Mr. Sutherland stated that he was not in contact with Mr. Morrison, Mr. Waldo, Ms. Cain or Ms. Childers during this time period. He stated that as a result of sharing a campaign office with Mr. Reed, he was in contact with him. He stated, ***"Sam Reed and I shared a campaign office together so I saw Sam not only at the campaign office but also out at the various functions that were going on. So I would see Sam on a regular basis. Jim Waldo, no I haven't seen Jim all this year except at a function well after the election. Let's see who else, Sid Morrison, no I, of course Sid is the president but I didn't see him during this time period."*** **(Exhibit 29, SIO, p. 9)**

4.49 Mr. Sutherland stated that he had no prior knowledge that the Mainstream Republicans planned on producing a post card advertising his candidacy, or the candidacies of Mr. Reed or Mr. McKenna. Mr. Sutherland stated that he first learned of the postcard as a result of the incorrect endorsements when his campaign manager, Todd Myers, was contacted by Washington Conservation Voters and The Nature Conservancy. He stated, ***"Not until Todd came in and said ... the Mainstream had published a postcard advertiser and there was a mistake on it.... That was our first awareness at all. I don't think Todd knew about it. I certainly didn't know anything about it."*** **(Exhibit 29, SIO, p. 10)**

4.50 Mr. Sutherland stated that as a result of the incorrect endorsements advertised by TMR, his campaign decided to do a press release, especially to correct the impression that The Nature Conservancy endorsed his campaign. He stated, ***"Todd came to me and said 'oh my gosh are you aware of any of this' and I said 'I haven't got a clue what you're talking about.' And so he advised me as to what had happened. And that he had asked them to correct it. He and I talked about whether or not it made good sense for us to issue a press release indicating that there was an error and we decided that that made good sense. That people should be aware of it, particularly my friends at the Nature Conservancy because it would***

have or could have a negative impact on their 501C3 status.” (Exhibit 29, SIO, p. 8)

4.51 Mr. Sutherland stated that he believed Mr. Myers contacted TMR to request a correction of the mailer. He stated, ***“They contacted Todd. Todd found out who did the work and got them to redo the flyer piece, which was done to correct that error. So that was just before the election....” (Exhibit 29, SIO, p. 5 and 6)*** Mr. Sutherland clarified that he did not know who Mr. Myers spoke to at TMR. He stated, ***“I don’t know who.” (Exhibit 29, SIO, p. 6)*** Mr. Sutherland stated that as a result of requesting a correction, he thought Mr. Myers found out that TMR was not yet done distributing the postcard. He stated, ***“Well what he was asking the Mainstream folks to do is to correct the flyer. And evidentially this was before (they) completed their distribution. And so the press release was to inform those who had received it that there was an error.” (Exhibit 29, SIO, p. 6)***

4.52 Mr. Sutherland later clarified in the interview that he wasn’t really sure whether Mr. Myers learned that the postcard was still being distributed. He stated, ***“I think so...I’m not really sure.” (Exhibit 29, SIO, p. 7)*** Later in the interview, Mr. Sutherland clarified that he thought Mr. Myers learned from TMR that the mailer had already been sent out. ***(Exhibit 29, SIO, p. 15)***

4.53 Todd Myers, campaign manager for the Sutherland campaign, stated in an interview under oath that he was not aware that TMR planned on producing a postcard advertising Doug Sutherland, Sam Reed or Rob McKenna. When asked if he knew of TMR’s general plan to advertise statewide candidates, he stated, ***“Did I know? No. Did I suspect that they might? I mean they do that every year but I did not know. No.” (Exhibit 30, MIO, p. 3)*** When asked whether anyone from the Mainstream Republicans consulted with the Sutherland campaign about the postcard mailer, Mr. Myers stated, ***“No. If they did they would have gotten it right.” (Exhibit 30, MIO, p. 6)***

4.54 Mr. Myers stated that he became aware of the postcard as a result of contacts by The Nature Conservancy and the Washington Conservation Voters, which he estimated to be the Thursday or Friday, two weeks prior to the election. He stated, ***“It was on a Friday and ... what I was told at that time by the Nature Conservancy and the Washington Conservation Voters was it had hit two days earlier like on the Wednesday. I can’t remember which Friday it was. It must have been the Friday two weeks before the election.” (Exhibit 30, MIO, p. 6)*** ***“You know now that I’m thinking about it we may have gotten the phones calls on the Thursday because I think it took us a day to do the release and I know that we did the release on a Friday.” (Exhibit 30, MIO, p. 7)***

4.55 Mr. Myers stated that he did not contact TMR concerning its mistake advertising Mr. Sutherland’s endorsements, but recalled asking Mr. Sutherland to do so. He

stated, ***“My recollection was that I asked Doug to try and get in touch with Jim Waldo because he was the only person I knew who was with the Mainstream Republicans. And I know that in 2002 or 2000 that he (Mr. Waldo) had done a lot, he was their chief fundraiser and done a lot of stuff for them. And so I asked Doug to see if he could get in touch with Jim Waldo. I don’t know if that contact was ever made but that’s what I asked.”*** (Exhibit 30, MIO, p. 7) As previously described, Mr. Sutherland stated under oath that his only contact with Mr. Waldo was after the election. Mr. Waldo confirms that he was not in contact with the Sutherland campaign. He stated, ***“I had no contact with Doug or Todd Meyers or anybody else in Doug’s campaign.”*** (Exhibit 23, WIO, p. 25) Mr. Waldo further stated that he did not share with Mr. Sutherland or his campaign that TMR planned on producing the postcard mailer advertising, in part, Mr. Sutherland’s candidacy. (Exhibit 23, WIO, p. 46)

4.56 When Mr. Myers was informed that Mr. Sutherland believed that he contacted TMR concerning the incorrect endorsements, Mr. Myers stated, ***“No. ... because I didn’t know anybody at the Mainstream Republicans. ... I knew that he knew Jim Waldo and frankly I had tried to call Jim Waldo in the past over the past year for a variety of different things but never got the phone call back from him. So I asked Doug to go ahead and do that because I thought that he would be more successful. So he may have misunderstood but it was really, I thought Doug could be more successful than I was.”*** (Exhibit 30, MIO, p. 10 and 11) ***“I don’t know how successful Doug was in calling Jim Waldo. To be honest I never talked to him about it again. I mean it was, it kind of wasn’t our issue and I needed to move onto other things. I can tell you that I never talked with Jim Waldo or Carol Cain or anybody like that.”*** (Exhibit 30, MIO, p. 10 and 11) Mr. Myers also stated under oath that he was not aware whether TMR would mail the postcard again. (Exhibit 30, MIO, p. 12)

4.57 Mr. Myers stated that he was not in contact with Ms. Cain in 2004, and last spoke to her by e-mail in 2002 or 2003 concerning a campaign issue for Doug Sutherland’s campaign. (Exhibit 30, MIO, p. 4 and 5)

Sam Reed Campaign:

4.58 In an interview under oath with Mr. Reed, he stated that he has been involved with TMR since the committee’s inception and has been a board member for approximately 12 years. During calendar year 2004, Mr. Reed stated that he attended board meetings through April, 2004, and attended the August, 2004 meeting. (Exhibit 31, SRIO, p. 2) When asked whether Mr. Reed were aware of a general advertising plan for 2004, he stated he was aware that the committee would be assisting legislative candidates with endorsements. He stated, ***“I was aware that they were going to help, particularly the legislative candidates and they, so they***

were involved quite extensively in interviewing legislative candidates.” (Exhibit 31, SRIO, p. 3)

4.59 Mr. Reed stated that he had no prior knowledge that the Mainstream Republicans planned on producing a post card advertising his candidacy, or the candidacies of Mr. Sutherland or Mr. McKenna. **(Exhibit 31, SRIO, p. 9)** Mr. Waldo stated that he did not share with Mr. Reed that TMR planned on producing the postcard mailer. **(Exhibit 23, WIO, p.46)**

4.60 Steve Excell, a board member of TMR, volunteered on Mr. Reed’s campaign. Mr. Excell also stated that he had no prior knowledge of the TMR’s plan to produce an independent expenditure, and learned of the postcard after the election was over. **(Exhibit 32, EIO, p. 9)** He stated, ***“The very first time I knew about this was somewhere about two weeks ago an email got sent out by the Mainstreamers saying they were being investigated by the PDC for an independent expenditure in this race and some other races...I didn’t even know that happened. And didn’t get it, didn’t see it and was surprised.”*** **(Exhibit 32, EIO, p. 9)** Concerning the October 14th TMR board minutes describing the independent expenditure advertising, in part, Mr. Reed, Mr. Excell stated that although he receives TMR’s minutes by e-mail, he has no recollection of reading any of them. He stated, ***“I don’t even recall seeing them.”*** **(Exhibit 32, EIO, p. 5)** Mr. Excell stated that he was not in contact with Mr. Morrison, Mr. Waldo, Ms. Cain, Ms. Childers or Ms. Kraft during this period, and did not receive updates from other TMR board members on the committee’s activities. **(Exhibit 32, EIO, p. 6)**

4.61 Mr. Excell stated that his role as a Reed Campaign volunteer was general and limited, and he was not in charge of any aspect of the campaign. He stated, ***“I designed the yard signs ... if they asked for advice I gave it. ... I’ve stuffed envelopes on my lunch hour and that kind of stuff. A couple of times they’ve asked if I’d help wordsmith something they were going to put up on their website ...I was not in charge of the day to day operations nor the strategy nor their fundraising...”*** **(Exhibit 32, EIO, p. 4)**

4.62 Mr. Reed stated that he was not in contact with Ms. Cain or Ms. Childers during this period, but did have contact with Ms. Kraft, Mr. Morrison and Mr. Waldo between the primary and general election. **(Exhibit 31, SRIO, p. 4 and 6)** Mr. Reed states that his contact with Ms. Kraft was in conjunction with a fundraiser that his campaign coordinated and she participated in. He stated, ***“I saw Joanie Kraft on September 24th. She and a couple others did a fundraiser for me over in Wenatchee.”*** **(Exhibit 31, SRIO, p. 6)** Mr. Reed stated that his contact with Mr. Morrison was limited to reviewing TMR’s endorsements of legislative candidates. He stated, ***“Well every once in a while regarding the legislative candidates, particularly after the primary election there was some questions about other candidates who we had not endorsed who won the primary. Whether we ought to***

be endorsing them for the general.” (Exhibit 31, SRIO, p. 4) Mr. Reed’s contact with Mr. Waldo is detailed in 4.64.

Jim Waldo’s contact with the Reed Campaign – Steering Committee:

4.63 Mr. Waldo stated that he was invited to the Reed Campaign’s steering committee meetings, but only attended the informal meetings with Sam Reed, Gary Smith and the campaign coordinator or manager. He stated, *“he (Mr. Reed) had a formal campaign like steering committee ... which I was supposed to participate in and never made it. But ... there were a couple of meetings that were not of that full group that I did attend when my schedule permitted.” (Exhibit 23, WIO, p. 28)* Gary Smith, the Reed Campaign’s county chair, confirms Mr. Waldo’s recollection attendance of the steering committee meetings. He stated, *“Well he was a member of the steering committee and he would occasionally attend. I would have to say he wasn’t a particularly good attender ... I would guess that he was probably in attendance in more than one steering committee meeting in the course of the year.” (Exhibit 36, GSIO, p. 2)*

Jim Waldo’s contact with the Reed Campaign – September 9th meeting:

- 4.64 Concerning Mr. Reed’s contact with Mr. Waldo, he stated that he met with Mr. Waldo on September 9, 2004 during which a number of topics were discussed, as detailed below.
- a) Mr. Reed remembered primarily discussing with Mr. Waldo ways to handle the media concerning the blanket primary issue. He stated, *“...September 9th. And what we were discussing was the primary issue because a lot of people, particularly some Republicans were really angry looking over my opposition to the pick a party primary and my support for having a wide open primary system in the state and so we were discussing, he and I and a couple of others some strategies of how to handle that.” (Exhibit 31, SRIO, p. 5)* Mr. Waldo confirms Mr. Reed’s statements, and states that he recalls Sam Reed, Justin Anderson, the Reed Campaign manager, Gary Smith and Trova Hutchins, also a TMR board member, coming to his house to discuss the campaign, which he believes occurred on September 9, 2004. **(Exhibit 23, WIO, p. 36)**
 - b) Mr. Reed stated that he believes at that meeting, he and Mr. Waldo may have discussed fundraising goals. He stated, *“He (Mr. Waldo) wasn’t involved in the campaign on an ongoing basis per say of somebody I talk to regularly. But when we discussed it, I don’t even remember specifically saying that but I would imagine that would be a logical point to bring up at some point about how are you doing in fundraising, what are you trying to raise type of thing...I’m just supposing we probably did.” (Exhibit 31, SRIO, p. 8)*
 - c) Mr. Reed stated that it was possible he summarized for Mr. Waldo where the campaign was at that point. He stated, *“We sure could have. In terms of kind of summarizing where we were and that type of a thing... Organization,*

endorsements, how it looked in terms of getting support after the primary and all of that type of thing.” (Exhibit 31, SRIO, p. 14)

- d) Mr. Reed stated that he recalled sharing with Mr. Waldo that the campaign was going well, although he needed help fundraising. He stated, ***“Well for sure I shared what was happening with the campaign at the time and I felt all along we were making good progress and still getting to where we wanted to go. And we were well organized. I had chairman in every county with events lined up. And fundraising mailings were getting good returns and, but we really need to scramble to raise the money because there weren’t any special interest groups interested in the office of the Secretary of State. So, which all of the money we raise is just simply going to people asking for support.” (Exhibit 31, SRIO, p. 14)***
- e) Mr. Reed stated that he made a general request for assistance in fundraising, and Mr. Waldo gave his help by hosting a fundraiser on his behalf in September. He stated, ***“Yes. And he (Mr. Waldo) gave it to me. He and two other people who aren’t related to Mainstream, did a little gathering at his law firm there in Tacoma and raised money for me.” (Exhibit 31, SRIO, p. 14)***

Jim Waldo’s contact with the Reed Campaign – Contact with Gary Smith, County Chair:

- 4.65 Mr. Smith stated under oath that he was the Reed Campaign’s state chair. He stated, ***“I convened and ran the meetings of the steering committee and sometimes gave advice to the campaign staff on, as the campaign progressed.” (Exhibit 36, GSIO, p. 2)***
- 4.66 Mr. Waldo stated that he was involved in the Reed Campaign earlier in the election cycle, but ended that relationship when he decided to work on the postcard mailer. At the point Mr. Waldo decided to work on the independent expenditure, he informed Mr. Smith that he would no longer be in contact with the Reed Campaign. Mr. Waldo stated, ***“...basically at the point that, around the primary that I decided to do this I told his (Sam Reed’s) chairman, Gary Smith, that I working on a project. That’s all I said. But I said I’m not in a position to be talking to you or Sam any further and left it at that...” (Exhibit 23, WIO, p. 23)*** Mr. Smith confirms that Mr. Waldo contacted him in late September, and asked that Mr. Smith not call him regarding the Reed Campaign because he was working on a project. Mr. Smith states that Mr. Waldo was not specific about the project he was working on. He stated, ***“I think that it was in mid to late September... I would say he was specifically not specific.” (Exhibit 37, GSIO, p. 4)***
- 4.67 Mr. Waldo stated that prior to informing Mr. Smith that he didn’t want to be in contact due to his project, Mr. Waldo had been in occasional contact with Mr. Smith. He stated, ***“I mean he and I would talk occasionally. Again I was so busy I didn’t have time to participate in a lot of their campaign meetings and so Gary would call.” (Exhibit 23, WIO, p. 25)*** During this period prior to his request for no

contact, Mr. Waldo recalls receiving status reports on how the Reed Campaign was going from Mr. Smith and others on the campaign. He states, ***“...sort of status reports. Here’s how we’re doing on fundraising. Here’s how we’re doing on organizing. This is what Sam’s schedule looks like. Those kinds of things...Or they would have people, occasionally they’d say well let’s get together and we’ll have people report, like the campaign managers and others on how they’re doing.”*** (Exhibit 23, WIO, p. 27) Mr. Smith described that he was in infrequent contact with Mr. Waldo during the election. He stated, ***“That would be very infrequently frankly.”*** (Exhibit 37, GSIO, p. 2)

Jim Waldo’s contact with the Reed Campaign – Contact with Mikal Thomsen, Finance Chair:

4.68 Mr. Waldo stated that he solicited Mikal Thomsen, the Reed Campaign’s finance chair, to contribute to TMR for the postcard mailer. Mr. Waldo stated that he was aware that Mr. Thomsen was a member of Mr. Reed’s campaign when he made his solicitation. He stated, ***“I did know Mikal was his finance chair.”*** (Exhibit 23, WIO, p. 18 and 28) Mr. Waldo then asked Mr. Thomsen to solicit John Stanton to contribute to TMR for the postcard mailer. (Exhibit 23, WIO, p. 18) Mr. Thomsen confirms Mr. Waldo’s recollection regarding the solicitation and that Mr. Waldo solicited Mr. Stanton through him. Mr. Thomsen also confirms that he solicited Mr. Stanton to make a contribution to TMR for the postcard mailer, which would advertise Mr. Reed. Mr. Thomsen stated, ***“I have solicited John in the past for this. And I told him that we were going to try and get a piece out to the, for those three candidates (Mr. Reed, Mr. Sutherland, and Mr. McKenna) through the Mainstream Republicans and that they would, if he felt he could, I’d love to solicit a check from him.”*** (Exhibit 35, MTIO, p. 3)

4.69 As part of his solicitation message, Mr. Waldo states that he was specific about who would be advertised on the mailer, and named the candidates. He states, ***“my pitch was pretty simple. I thought Kerry was going to carry the state...I thought the governor’s race was going to be close, a coin toss...basically the major campaigns all had ... a lot of consultants and money ... I thought these three down ballot races were important races and particularly the Attorney General’s race ... Mentioned, sure all three of them.”*** (Exhibit 23, WIO, p. 19 and 20) Mr. Thomsen confirmed Mr. Waldo’s recollection, and stated, ***“I believe he told me that it was going to support Sam Reed, Doug Sutherland and our Attorney General, Rob McKenna.”*** (Exhibit 35, MTIO, p. 3)

4.70 Mr. Thomsen stated that after making the contribution to TMR, he told Mr. Smith that he contributed for an independent expenditure advertising Mr. Reed; Mr. Thomsen stated that Mr. Smith was the only person on the Reed Campaign that he recalled sharing this with. Mr. Thomsen stated, ***“I think I may have mentioned to someone that I had written a check for that purpose, but it was well after the point that I both, was solicited and wrote the check... Possibly Gary Smith.”*** (Exhibit

35, MTIO, p. 4) Mr. Smith stated that he had no recollection of Mr. Thomsen stating he contributed for an independent expenditure advertising Mr. Reed. He stated, ***“I don’t think so or at least I don’t remember that.”*** (Exhibit 36, GSIO, p. 4)

Jim Waldo’s contact with the Reed Campaign – September 27th campaign fundraiser:

4.71 Mr. Waldo states that he held a fundraiser for Mr. Reed on or about September 27, 2004, in part, because he could not be involved in the campaign now that he was working on the postcard mailer. He stated, ***“because I was doing this independent mailing I obviously couldn’t participate anymore in his campaign...direction or supervision or give advice or do any of that.”*** (Exhibit 23, WIO, p. 31 and 32)

4.72 According to the Reed Campaign’s “October 3rd campaign report,” Mr. Waldo’s September 27th fundraiser raised \$10,000. The report states, ***“In Tacoma, Jim Waldo, Toby Murray, and Karl Anderson organized a little after hours’ reception with some key community leaders that netted almost \$10,000! They couldn’t have been more positive and more supportive.”*** (Exhibit 37)

Rob McKenna Campaign:

4.73 In an interview under oath with Mr. McKenna, he stated that he has been invited to TMR’s candidate forums but that he is not a dues paying member or board member of the organization. (Exhibit 38, RMIO, p. 2) When asked whether he was aware of TMR’s general advertising plan for 2004, Mr. McKenna stated he was not aware of their advertising program, nor ***“that they were contemplating any kind of independent expenditure campaign until I was given a copy of what they had mailed out after they had mailed it.”*** (Exhibit 38, RMIO, p. 3)

4.74 Mr. McKenna stated that he had no prior knowledge that the Mainstream Republicans planned on producing a post card advertising his candidacy, or the candidacies of Mr. Sutherland or Mr. Reed, until he received a copy of the postcard on October 18, 2004. (Exhibit 38, RMIO, p. 9) He stated, ***“My first knowledge of it came after, at the moment that Jim Waldo handed me a brochure and informed me that they had mailed them out. I had no clue that they were planning to do so or that they had been raising money to do so.”*** (Exhibit 38, RMIO, p. 11)

4.75 Mr. Waldo stated that he did not share with Mr. McKenna that TMR planned on producing the postcard mailer. (Exhibit 23, WIO, p. 46) Mr. Waldo acknowledged that copies of the postcard were made available at a fundraiser held for Mr. McKenna on October 18, 2004, which Mr. McKenna saw. Mr. Waldo stated that he told Mr. McKenna about the prior mailing of the postcards, but that he ***“did not tell him about the possibility that additional cards might also be mailed out.”*** (Exhibit 24) Mr. McKenna stated that his understanding of the mailing was that it completed.

He stated, ***“No. As far as I know it was only mailed out once. If it was mailed out more than once that’s news to me.”*** (Exhibit 38, RMIO, p. 14)

- 4.76 Mr. McKenna stated that he had contact with Mr. Waldo during the election. He stated, ***“I sought out Jim’s support for my campaign early on and he was not involved in my campaign until after the primary when he hosted a fundraiser for me at his law firm. That would have been in approximately October. And it was Jim Waldo who gave me a copy of the brochure that was mailed out and informed me that they had mailed out several hundred thousand of them.”*** (Exhibit 38, RMIO, p. 5) Mr. Waldo confirmed Mr. McKenna’s statement that he attended two McKenna Campaign fundraisers and that he personally coordinated a fundraiser for Mr. McKenna, which occurred on October 18, 2004. Regarding the October 18th fundraiser, he stated, ***“Now we did participate ...in a fundraiser for Rob in Pierce County... And I did call people for that... the event as a whole probably raised I’m guessing \$2,500-\$3,000. Something like that”*** (Exhibit 23, WIO, p. 29 and 30)
- 4.77 Mr. McKenna stated that his only contact with Mr. Morrison during the year was in conjunction with the Mainstream Republicans’ endorsement process. He stated, ***“He was the person who was my point of contact to be invited to their board meeting in Pierce County.”*** (Exhibit 38, RMIO, p. 3) Mr. McKenna stated that he does not recall any contact with Ms. Cain, because he doesn’t know her. He stated, ***“You know the name is familiar but I don’t know her. Maybe I’ve met her but I don’t, she’s not a friend.”*** (Exhibit 38, RMIO, p. 3) Mr. McKenna stated that he had contact with Ms. Childers through her role with the Benton County Republican Women’s Group and a local chapter of the Benton County Mainstream Republicans. Mr. McKenna stated that his only contact with Ms. Kraft was in conjunction with her attendance at one of his fundraisers. (Exhibit 38, RMIO, p. 4) Mr. McKenna stated that he was in contact with Sam Reed and Doug Sutherland in 2004 at candidate events, but Mr. McKenna added, ***“... not in regards to the Mainstream Republicans specifically other than just being at Mainstream Republican events together.”*** (Exhibit 38, RMIO, p. 5) Mr. McKenna stated that TMR board members Senator Jim Horn and Louise Miller endorsed his candidacy, but played no further role in his campaign. (Exhibit 38, RMIO, p. 8 and 9)

Distribution and costs of the “Leadership for Washington’s Future” postcard:

- 4.78 Although the Mainstream Republicans states on its website that 425,000 recipient households received the postcards, invoices and testimony indicate that 225,996 postcards were mailed by TEKS Services, an additional 47,297 were allegedly mailed by Raptor Management Company, and approximately 37,703 were available for hand delivery, for a grand distribution total of 310,996. Costs associated with the printing, mailing list, labels, postage and handling for the “Leadership for Washington’s Future” postcard total \$90,927.80, as detailed below:

1. Invoices and documents provided by TEKS Services, a mail house located in Puyallup, Washington, indicate that it delivered 225,996 postcards to the US Post Office, for a total cost of \$47,664.12. The vendor stated that it destroyed the remaining 74,004 cards in its possession.
 - a) A letter dated January 4, 2005, and invoice number 3577 indicated that TEKS Services delivered 127,698 postcards to the US Post Office on October 15, 2004. The costs associated the October 15th mailing were \$26,917.49, and were paid for by Raptor Management Company on October 19, 2004. **(Exhibit 7, Exhibit 9 and Exhibit 12)**
 - b) A letter dated January 4, 2005, and invoice number 3645 indicated that TEKS Services delivered 98,298 postcards to the US Post Office on October 27, 2004. The costs associated the October 27th mailing were \$20,746.63, and paid for on October 27, 2004 by Raptor Management Company. **(Exhibit 7, Exhibit 9 and Exhibit 12)**
 - c) A letter dated December 29, 2004, from Doug Brady of TEKS Services states that 300,000 total postcards were initially delivered to the business, of which it mailed 225,996, and recycled 74,004 cards. **(Exhibit 7)**
2. Capitol City Press' invoice number 25167 documents that it printed 380,000 postcards for TMR's, costing \$21,957.50, for which TMR paid on October 28, 2004. An additional 5,000 postcards, costing \$1,377.76, were printed by Capitol City Press for Carol Cain's company, Raptor Management, as documented on invoice number 25721, dated October 27, 2004; As of January 10, 2005, Raptor Management has not yet paid this invoice. **(Exhibit 8, and Exhibit 9)**
3. Claddagh Associates' invoice number 54 documents that it charged TMR \$1,000 for consultation with Jim Keough for "work on mailing." Mr. Keough stated that he provided a data base of addresses used in the postcard mailing. **(Exhibit 26)**
4. Raptor Management was paid \$32,475.80 and \$35,494.50 by TMR for coordination of the postcard mailing. Of the \$67,970.30 the company received, it paid sub-contractor TEKS Services for delivery of 225,996 postcards costing \$47,664.12. Ms. Cain stated under oath that her company then acted as a mail house for an additional delivery of 47,297 corrected postcards, for which she stated she purchased \$17,500 in postage at \$.37 per piece, mailed from October 25 through October 30, 2004. Ms. Cain stated that she also corrected over 50,000 postcards that were hand delivered². **(Exhibit 12 and Exhibit 15)** However, Raptor Management's invoice information, and the letters of response filed on behalf of TMR by Ms. Cain is inconsistent with information provided by the sub-contractor, TEKS Services, concerning actual costs and mailing totals. In

² Although Ms. Cain states that over 50,000 postcards were correct for hand delivery, PDC staff estimates that 37,703 postcards were available for distribution by deducting from the total amount printed, the number mailed by TEKS Services, the number of postcards destroyed by TEKS Services, and the number Ms. Cain states she mailed ($385,000 - 225,996 - 74,004 - 47,297 = 37,703$).

addition, the inconsistencies in invoices, letters of response and Ms. Cain's testimony bring into question the veracity of Raptor Management's mailing of 47,297 postcards. Ms. Cain stated under oath that she did not retain receipts for the \$17,500 in postage she purchased in cash; therefore PDC staff requested Raptor Management's bank statements, which were provided but were altered to remove Wells Fargo's transfer detail for monies totaling \$17,500³. **(Exhibit 25)** Hence, PDC staff is unable to substantiate costs and distributions totals associated with Raptor Management's mailing. **(Exhibit 17, and Exhibit 25)** The inconsistencies are detailed below:

- a) Raptor Management's invoice number 04-1014-02, dated October 14, 2004, documented that it incurred \$32,744.00 total in postage and handling charges at \$.20 per piece for the October 15th postcard mailing and \$1,780.00 charges at \$.25 per piece for distribution of TMR's newsletter, totaling \$34,524.00. The invoice in question specified that the size of the postcard mailing was 163,720, although Raptor Management employed TEKS Services to mail 127,698 postcards. **(Exhibit 7)** In an interview under oath, Ms. Cain stated that the 163,720 number represents the committee's initial goal of distribution, which was scaled back at the last minute due to lack of funding. **(Exhibit 15, CIO2, p. 13)** Please see attached Table 1 and 2 for a comparison of Raptor Management's invoice and its sub-contractor's invoice.
- b) Raptor Management's invoice number 04-1014-02 documented that it incurred \$2,900.02 in tax for the two mailings. However, TEKS Services invoices indicate that it charges 8.8% tax for charges associated with handling and the machine set up, which was \$340.64 for the October 15th mailing, and \$58.80 for the newsletter mailing, a total of \$399.44. **(Exhibit 7 and Exhibit 16)** Please see attached Table 1 and 2 for a comparison of Raptor Management's invoice and its sub-contractor's invoice.
- c) Raptor Management's invoice number 04-1025-05, dated October 25, 2004, indicated that it incurred \$32,475.80 in charges for ***"labels, stickers, and postage and delivery costs"***, at \$.20 per unit, associated with a postcard mailer of 162,379 pieces, although Raptor Management employed TEKS Services to mail 98,298 postcards, which it delivered on October 27, 2004, and billed \$20,746.63 for this mail project. **(Exhibit 7 and Exhibit 16)** In an e-mail sent to Ella Childers, treasurer for TMR, on October 26, 2004, Ms. Cain reiterates the distribution and cost totals and writes, ***"We're sending out a total of 162,379 pieces of mail this time for a total cost of \$32,475.80...Everything has to be in the mail tomorrow or the post office won't guarantee delivery by Nov 2. So we are on a time***

³ The breakdown of withdraws that had Wells Fargo's transfer detail removed from Raptor Management's bank statement included two withdraws on October 19, 2004, of \$6,500 and \$1,000, and three withdraws on October 27, 2004, of \$5,000, \$2,500 and \$2,500, totaling \$17,500.

crunch now.” (Exhibit 18) In her letter of response delivered on January 5, 2005, Ms. Cain acknowledged the inconsistent distribution totals and stated that this was due to the chaotic nature of organizing the mail project, the short time frame during which it occurred, and the need to stop the mailing and correct the postcard pertaining to endorsements for Mr. Sutherland. (Exhibit 12) Please see attached Table 3 and 4 for a comparison of Raptor Management’s invoice and its sub-contractor’s invoice.

- d) Raptor Management’s invoice number 04-1025-05 documented that it incurred unspecified costs for labels and stickers, although in an interview under oath, Ms. Cain stated that she did not charge TMR for stickers or labels. (Exhibit 15, CIO2, p. 11) Please see attached Table 3 and 4 for a comparison of Raptor Management’s invoice and its sub-contractor’s invoice.
- e) In the letter dated January 5, 2005, Ms. Cain provided a breakdown of payments made to Raptor Management, and sub contract work paid for by Ms. Cain; however the January 5th accounting of postcard costs fails to list expenses associated with a newsletter mailing on or about October 14, 2004, for postage, handling and 8.4% tax, totaling \$4,680.02⁴, as reported on invoice number 04-1014-02. (Exhibit 12 and Exhibit 16) Further, Ms. Cain’s breakdown of total expenses for the October 15th and October 27th postcard mailer contains a total of \$19,035.48 in unsubstantiated expenses allegedly made by Raptor Management. Please see attached Table 5 for the breakdown provided by Raptor Management.
- f) PDC staff requested documentation of US Post Office receipts for postage totaling \$17,500 and bank statements for the month of October, 2004. Ms. Cain stated in an interview under oath that she kept postal receipts. She stated, ***“I should have all of the postal receipts.”*** (Exhibit 15, CIO, p. 8). In a subsequent interview under oath, and a letter of response dated January 5, 2005, Ms. Cain stated that she does not ever retains receipts, and that she did not retain receipts for the \$17,500 in postage receipts. (Exhibit 15, CIO2, p. 29) She states in the letter, ***“I didn’t get receipts when purchasing postage stamps for the cards that I mailed...This is not out of the ordinary for me to not get receipts: I never do. I loose (sic) them most of the time and frankly, never in my wildest did I image I would have to produce receipts to the PDC.”*** (Exhibit 18)
- g) On January 10, 2005, Ms. Cain furnished Raptor Management’s bank statement for the period of October 14, through November 12, 2004, which was provided altered to remove the transfer detail of \$17,500. The

⁴ The breakdown of costs shown on Raptor Management’s invoice include \$1,566.40 for postage at \$.22 per 7,120 pieces, \$213.60 for handling at \$.03 per 7,120 pieces, and 8.4% tax of the total bill, amounting to \$2,900.02.

breakdown of withdraws that had the transfer detail removed from Raptor Management's bank statement included two withdraws on October 19, 2004, of \$6,500 and \$1,000, and three withdraws on October 27, 2004, of \$5,000, \$2,500 and \$2,500, totaling \$17,500. Please see attached Table 5 the breakdown provided by Raptor Management, which notes which charges were substantiated by sub-contractors or receipts.

Respectfully submitted this 12th day of January, 2005.

Suemary Trobaugh
Sr. Political Finance Specialist

Tables List

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|----------------|---|
| Table 1 | Raptor Management's invoices associated with October 15 th mailing. |
| Table 2 | TEKS Services invoices associated with October 15 th mailing. |
| Table 3 | Raptor Management's invoices associated with October 27 th mailing. |
| Table 4 | TEKS Services invoices associated with October 27 th mailing |
| Table 5 | Raptor Management's breakdown of costs associated with October 15, October 27, 2004 and additional mailing provided on January 5, 2005. |

Exhibits List

- | | |
|------------------|--|
| Exhibit 1 | On June 14, 2004, the Mainstream Republicans (hereafter, TMR) committee submitted an amended political committee registration form (PDC form C-1pc). |
| Exhibit 2 | C-4 and Schedule A reports filed by the Mainstream Republicans on October 25, and December 1, 2004. |

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- Exhibit 3** First and second edition of postcard entitled, "*Leadership for Washington's Future*," paid for and sponsored by the Mainstream Republicans.
- Exhibit 4** Screen print of TMR website.
- Exhibit 5** Independent Expenditure reports (PDC form C-6) filed on October 21, and October 26, 2004, by TMR.
- Exhibit 6** Letter of complaint filed on October 27, 2004, by Lisa McShane.
- Exhibit 7** Invoices and letters provided by TEKS Services, Inc.
- Exhibit 8** Invoices and e-mail provided by Capitol City Press.
- Exhibit 9** Raptor Management Company's October 2004 bank statement.
- Exhibit 10** The Mainstream Republican's letter of response filed by Carol Cain on November 30, 2004.
- Exhibit 11** The Mainstream Republican's letter of response filed by Carol Cain on December 9, 2004.
- Exhibit 12** The Mainstream Republican's letter of response filed by Carol Cain on January 5, 2005.
- Exhibit 13** The Mainstream Republican's letter of response filed by Sid Morrison on December 11, 2004.
- Exhibit 14** Citizen Action Letter filed on November 30, 2004, by James D. Oswald.
- Exhibit 15** Interview transcripts from December 10, 2004 and January 5, 2005 interview with Carol Cain.
- Exhibit 16** Invoices from Raptor Management.
- Exhibit 17** PDC staff e-mail correspondence with TMR requesting Raptor Management's October 2004 bank statement.
- Exhibit 18** E-mail correspondences between Ms. Cain and Ms. Childers of TMR on October 26, 2004.
- Exhibit 19** Interview transcripts from December 17, 2004 interview with Ella Childers.

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- Exhibit 20** Newspaper articles concerning Mike Cooper's and Doug Sutherland's endorsements.
- Exhibit 21** Screen print from Washington Conservation Voters endorsement web page.
- Exhibit 22** E-mailed response from Sid Morrison dated December 11, 2004.
- Exhibit 23** Interview transcripts from January 4, 2005 interview with Jim Waldo.
- Exhibit 24** Statement provided by Jim Waldo.
- Exhibit 25** Raptor Management's October 2004 bank statement.
- Exhibit 26** Claddagh Associates' invoice number 54, dated October 11, 2004.
- Exhibit 27** The Mainstream Republican's board meeting minutes from June 10, to October 14, 2004.
- Exhibit 28** Interview transcripts from January 4, 2005 interview with Joan Kraft.
- Exhibit 29** Interview transcripts from December 13, 2004 interview with Doug Sutherland.
- Exhibit 30** Interview transcripts from December 15, 2004 interview with Todd Myers.
- Exhibit 31** Interview transcripts from December 20, 2004 interview with Sam Reed.
- Exhibit 32** Interview transcripts from December 17, 2004 interview with Steve Excell.
- Exhibit 33** PDC staff memo to file regarding telephone conversation with TEKS Services.
- Exhibit 34** Interview transcripts from December 17, 2004 interview with Ella Childers.
- Exhibit 35** Interview transcripts from January 7, 2005 interview with Mikal Thomsen.
- Exhibit 36** Interview transcripts from January 11, 2005 interview with Gary Smith.
- Exhibit 37** October 3rd "campaign report" posted on Mr. Reed's campaign web site.

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Exhibit 38 Interview transcripts from January 3, 2005 interview with Rob McKenna.

Exhibit 39 E-mail from Joan Kraft of board member e-mail addresses.

Comparison of Raptor Management's and TEKS Services invoices for October 15, 2004 mailing:

Table 1 - Raptor Management's invoice for October 15th mailer:

Vendor Name	Purpose / sub contractor payment	Total Amount
Raptor Management.		\$ 37,424.02
Sub contractors		
TEKS Services	Postage postcard	\$ 27,832.40
TEKS Services	Handling postcard	\$ 4,911.60
TEKS Services	Postage newsletter	\$ 1,566.40
TEKS Services	Handling newsletter	\$ 213.60
	TAX	\$ 2,900.02

Table 2 - Sub-contractor's invoice for October 15th mailer:

Vendor Name	Purpose / sub contractor payment	Total Amount
Sub contractors		\$ 28,796.29
TEKS Services	Postage postcard	\$ 22,705.91
TEKS Services	Handling postcard	\$ 3,830.94
TEKS Services	Machine setup	\$ 40.00
TEKS Services	Tax	\$ 340.64
	Sub-total	\$ 26,917.49
TEKS Services	Postage newsletter	\$ 1,566.40
TEKS Services	Handling newsletter	\$ 213.60
TEKS Services	Machine setup	\$ 40.00
TEKS Services	Tax	\$ 58.80
	Sub-total	\$ 1,878.80

Tables 3 and 4: Comparison of Raptor Management's and TEKS Services invoices for October 27, 2004 mailing:

Table 3 - Raptor Management's invoice for October 27th mailer:

Vendor Name	Purpose / sub contractor payment	Total Amount
Raptor Management.		\$ 32,475.80
Sub contractors		
TEKS Services	Postage, delivery costs, labels, stickers	\$ 32,475.80
	TAX	\$ 0.00

Table 4 - Sub-contractor's invoices for October 27th mailer:

Vendor Name	Purpose / sub contractor payment	Total Amount
Sub contractors		\$ 22,124.39
TEKS Services	Postage postcard	\$ 17,494.66
TEKS Services	Handling postcard	\$ 2,948.94
TEKS Services	Machine setup	\$ 40.00
TEKS Services	Tax	\$ 263.03
	Sub-total	\$ 20,746.63
Capitol City Press	Printing 5,000 postcards	\$ 1,271.00
Capitol City Press	Tax	\$ 106.76
	Sub-total	\$ 1,377.76

Table 5: Raptor Management's breakdown of verified and unverified expenses:

Table 5 – Carol Cain's breakdown of costs incurred for October 15th, October 27th mailer, and an additional mailer:

Payments to:	Amount	Invoice verification? Y/N
Raptor Management	\$ 37,424.02	Yes
Raptor Management	\$ 32,475.80	Yes
Teks Services – 10/15 postcard mailing	\$ (26,917.49)	Yes
Teks Services – 10/27 postcard mailing	\$ (20,746.63)	Yes
Capitol City Press – 5,000 corrected postcard	\$ (1,377.76 ⁵)	Yes
Teks Services – 10/14 newsletters mailing	\$ (1,822.46)	Yes
Postage @ \$.37 x 47,297	\$ (17,500.00)	No
Capitol City Press invoice	\$ (800.00)	No
Gas reimbursement	\$ (400.00)	No
Final balance	\$ 335.48	No
Total of unaccounted monies	\$ 19,035.48	

⁵ Capitol City Press indicates that this invoice has not yet been paid; therefore the total of unaccounted monies is increased to \$20,413.24.